1944

File No. Est. II : L.A/44

Legal Department

C **BRANCH**

Subject:— P 15 F

Correspondance relating to the

Establishment of L.A. Office.

File No. Est. II . L.A/44

Gen. 194 e.

468-C

9, Saraswati Sadan,
16B-A, Vincent Road,
DADAR, Bombay (14),
May 9th, 1944.

To

The Secretary to the Government of Bombay,
Legal Department,
Secretariat,
BOMBAY.

Sir,

I very respectfully beg to submit this application for favour of your sympathetic consideration both on its merits and on the humanitarian and compassionate aspects of my whole case.

2. Going through my Service Book, I find that while it contains entries for every year from 1918 to 1st August 1934, there is not a single entry for the year 1935 and it at once jumps on to 15th November 1936. Not knowing the rules, I cannot say whether this omission will have any bearing on the calculation of my pensionable service which shows a shortage of 1 year and 6 months resulting in my being given a pension of Rs.200/9/0., despoit the fact that since 1st August 1934, my salary stood at Rs.500/- p.m. I should be grateful if you would very kindly have this looked into and adjusted if necessary.

3. I beg to admit that I am under a deep debt of gratitude to you for having increased my pension from Rs.185/- to Rs.200/9/- by permitting the Duty Allowance of Rs. 50/- to be calculated towards pension, but the tragic fact remains that Cruel Fate can still successfully claim that it has attacked me just "almost in the hour of my triumph" by causing a detachment of my left retina in the middle of October 1939, i.e. within about 6 weeks of my wife's death on 4th September 1939, the very morning on which I was to have taken charge as Chief Reporter.

4. Had it not been for this detachment of retina, it would not have been necessary for me to take leave after the expiration of the leave expiring by the end of October 1939, and I would have been enabled to complete the intervening years last two years of my service without any mishap of any sort and been entitled to the full 24/48 pension.

5. The shortage of 1 year and 6 months contains the period of active, political and important service under the late Brigadier-General Sir Gilbert Clayton in Yemen, South West Arabia, i.e. outside British territory. The period was from 26th December 1925 to 12th March 1926 followed by one month's leave from 13th March 1926 to 12th April 1926 due to major surgical operation rendered necessary by my having had to ride a mule for 10 to 12 hours a day for about a fortnight on my return journey from Sanaa to Aden. This 3 1/2 months' period has also worked a hardship on me, taking everything into consideration. If I had known what was to follow, I would not have gone at all.

6. Deducting (as it should be) this 3 1/2 months' shortage from the 1year and 6 months, there remains only 1 year and 2 1/2 months' shortage in active service. There would have been no such shortage if there had not been, by a cruel stroke of ill luck, the detachment of retina which has left my left eye utterly useless for reading or writing purposes.

7. The important question for your particularly sympathetic consideration, therefore, would appear to be this, namely, whether, in the case of a servant who had been in receipt of a pay of Rs.500/- from 1st August 1934 to 4th October 1941 i.e. for over seven years, Government in the Legal Department would not be pleased to relax the rules concerned on humanitarian and compassionate grounds and grant that servant the full pension which would have otherwise been payable to him, namely, the full pension on Rs.500/- plus the pension due on the Duty Allowance of Rs. 50/-.

8. I might be permitted to submit incidentally that my previous service in the Bombay City Police (C.I.D.(Political) and in the Excise Department, which has been already verified by you, amounts to about 2 years and was rendered for the Bombay Government's own Departments. The question whether in the special circumstances attaching to my case, that service should be condoned or not, also needs your generous thought.

very

9. The fact that the whole of the period from 2nd August 1934 to 14th November 1936 has failed to be accounted for also in the Service Book raises doubts as to whether any error has inadvertently been made in the other entries in the Service Book. I must, however, leave this point for your decision, I make it only by the way, not being fully conversant with these rules.

10. In conclusion, I would humbly point out that my salary during the period I was on deputation with Sir Gilbert Clayton in 1925-26 was Rs. 410/-. and even on this salary the pension would normally have been 24/48 or say Rs. 205/- as against my present pension of Rs.200/9/0/ After my return from South West Arbia, I was granted the ordinary increment of Rs.10/- on 1st August of every year till I reached Rs.500/- on 1st August 1924 and this salary of Rs.500/- I drew till 4th October 1941. AND YET, owing to the malicious and cruel machinations of FATE, which seems to have been lying in wait around the corner every time any good luck was to come to me, the pitch was queered for me and I have been left with a pension of Rs.200/9/0 ordinarily payable on the salary of Rs.400/- (four hundred) which I was drawing from 1st August 1924 to 1st August 1925 i.e. even before I went to South West Arabia on such an important Political Mission as Sir Gilbert Clayton's sent there by the Right Hon'ble Mr.L.S.Amery who was then the Secretary of State for the Colonies.

11.

12. Bespeaking your specially favourable consideration and awaiting the early courtesy of your orders both as regards the error in the Service Book and as regards the grant of full pension.

I beg to remain.
Sir,
Your most obedient servant.

Sd/-
(R. V. Kalkini)
Retired Chief Reporter, Bombay Legislative Assembly.

Respectfully submitted through the
Secretary to the Bombay Legislative
Assembly, for favour of being strongly recommended.

R.V.Kalkini.

SHT/31.7.

9,Saraswati Sadan,
168A, Vincent Road,
Dadar, Bombay (14),
May 14, 1944.

Dear Sir,

I much regret to have to trouble you in this matter but it has just been pointed out to me that as I was governed by the Fundamental Rules, the Bombay Legislative office was wholly irregular in applying the B.C.S.Rules Nos. 640,641,722 & 735 in the matter of my leaves applications, leave granted from time to time, refund of "excess salary" enforced, calculation of leave & calculation of pension under B.C.S.Rules , & that therefore the whole procedure followed by the B,L.A.office was entirely invalid, & that therefore I could rightly submit the claim to be deemed to have been in active service right from 13th Septr. 1939 to the date on which Secy, L.D. might pass his new order retiring me on full pension.

This is of course too big a legal question for me affecting not only me but other Govt. Servants who had exercised the option given to them in favour of the fundamental Rules but I know only this much that such election is entirely irrevocable I cannot be charged for any cause, that once made , it is permanent.

I merely submit this for favour of your & Secy. L.Ds considerations, relying on your both protecting by interest in the Bill.

Thanking you for past favours,

Yours obediently,

R.V.Kaikini.

(Retired Chief Reporter).

P.B.Mees, Esquire I.C.S.

Secy to Govt. Legal Deptt,

Secretariat, Bombay.

Bombay, the 5th April 1944.

To

The Secretary to the Government of Bombay,
Legal Department, B O M B A Y.,

Sir,

I beg to refer to the Legal Department Memorandum No.1299, dated the 12th February 1942 regulating my pay as steward in the Legislative Assembly Office in the scale of Rs.30-3-95-100-5-160 and to place the following facts for your kind and favourable consideration:-

2. I may kindly be allowed to bring to your notice that I was serving on the Temporary establishment of the Public Works Department for full 17 years before I joined as Steward under your kind control. I started on Rs.60/- in 1921 reaching Rs.85/- in 1925. Thereafter, on account of financial stringency I was not given any increment for nearly 11 years and moreover 10 per cent emergency cut was made permanent in that when I joined this post it was considered that my pay was inflated. A cut was therefore applied to my pay while fixing my starting pay and I was also given the new scale in Lower Division in spite of the fact that I had started in the P.W.D. on Rs.60/- the minimum of the old Lower Division scale. I respectfully submit that full justice has not been done in my case. In the following lines I am not however touching this old vexed question again.

Stagnant Pay. This was a heavy loss. I have to bear

3. The points that I am submitting now for your consideration are about the nature of the work that I have been doing and in consideration of that inadequacy of the lower division scale (new) and that also when my post is not interchangeable with other clerical posts in the office. The Lower Division new scale was sanctioned simply because it was the lowest possible scale in Bombay. It seems to have been recognised, however, that the nature of the duties of the Steward are different from those entrusted to other clerks and the post therefore was not made interchangeable

with ...

with other clerical posts. This bar has only worked in Preventing me from getting even any officiating promotion in higher post. Any benefit from deputation to outside office or by promotion from the Lower Division to the Upper Division by which so many members of various offices have benefitted is quite out of the question in my case. When all these privileges and benefits were denied to me it was in the fitness of things to have given to me a decent scale of pay for the kind of work that I have been doing and for compensating me for preventing from aspiring for any higher promotion. As for duties they are much more onerous and responsible than those attaching to the ordinary Lower Division clerical posts. Since the abolition of the post of Custodian in 1938 the duties of the Custodian have been entrusted to me in addition to the duties of a Steward, for which I am given free quarters as remuneration. As a Steward my duties are :-

1) Fire precautions,
2) Precautions against the entries into the building,
(3) The sanitation of the premises,
4) Maintaining a garden in front of the new building and and seeing that the compound is kept in order,
5) Discipline of the menial establishment employed in the building,
6) To look after and clean the valuable furniture in the new Assembly and Council Chambers and Offices,
7) To look after and preserve the valuable carpets and silver chobos, etc.
8) Arrangement of the meetings of the Assembly and Council in Session.

in addition to the duties, I have to do the addition duties, such as arrangement for accommodation for various war offices in the Council Hall Building, maintenance of the garden and "Grow More Food Campaign", management of the crowds of people coming to A.R.P. and Rationing Offices with a view to see that no damage is done to the furniture and other property of the building. Since 1940 and 1941 so many Government of India Committees were held in the Council Hall, namely (1) Court of Enquiries, (2) Roger's Mission, (3) Sir Ramaswamy Mudliar's Committee, (4) Fact Finding Committee, (5) Justice Rangnekar's Board of Conciliation Committee, (6) Periodical Rural Development Committee presided by His Excellency and (7) Periodical Commissioner's Conferences and I had to attend to their needs,

I enclose copies of some of the ~~sanitary~~ certificates from the Committees in this connection which speak for themselves.

Further, I am also doing all clerical work, despatching, filing, indexing, keeping records, examining of typewritten work, etc. In connection with the work as Steward, I am myself responsible for putting notes and correspondence when ever necessary. Personal attendance to the need and calls of Supply and Rationing Offices accommodated in the buildings takes much of my time and all this I am compelled to do because I am staying in the premises. I hope you will realise that the duties I have to perform are much more onerous and responsible than those attached to the ordinary Lower Division posts.

4. I may point out that the Head Clerk of the Separate Department who has somewhat similar duties is getting pay in the scale of Rs.180-10-250-300. Another point is that living in the Fort Area in which I am forced to live on account of my duties is costlier than in other areas. Conveyance charges of my children is costing me as much as I have to send them to Virgaum Schools, as there are no suitable schools in Fort Area to suit my pockets. On the ground of comparatively higher cost of living in Fort Area and some miscellaneous office work, I understand that the Custodian of the High Court Building is given a special pay of Rs.100/- per mensem plus freequarters in addition to pay in the grade of Rs.60-4-100-5-160.

5. I submit that in view of the facts stated above, I may be given at least the new scale of the Junior Assistants in the Secretariat, viz., Rs.100-5-120-10-220 from 1939, in order to give me adequate remuneration for the nature of duties I have to perform and also to compensate me for the bar placed on my promotion to any higher post.

I beg to remain.
Sir,
Your most obedient Servant,

Sd/-

Respectfully submitted through:-

The Secretary to the Bombay Legislative Assembly.
The Secretary to the Bombay Legislative Council.

SNI/31.7.

I received this application some time ago but I wanted first to examine the history of Mr.Sahnis' two former petitions. These were petitions for a higher pay in his present scale. They were rejected but in 1941 Mr.Sahnis got some measure of relief when the 16% cut was reduced to 6%.

The salient features about Mr.Sahnis's case are the following:-

He was 16 years in temporary service in the P.W.D. from 1921. He began as a probationer with a pay of Rs.55/- p.m. and by 1925 was a clerk on a pay of Rs.85/- Thereafter his pay remained at that level till 1931 when general 10% cut reduced his pay to Rs. 77/-. There it remained till 1937 when he was given an increment of Rs.3/- making his pay Rs.80/-. While on that pay he became in January 1938 a permanent Government servant as —— Steward in this Department. On his appointment the P.W.D. cut of 16% was applied by "analogy" and not on the authority of any G.R. Then months after his appointment as Steward the duties of Custodian which had formerly been done by a Superintendent in the P.W.D were also entrusted to him, for which the only remuneration given was rent free quarters. The Custodian's duties are considerable. On his present scale he will reach Rs.135/- after32 years of service and be Rs.25/- short of the maximum in his scale at the time of retirement at the age of 55 years.

There seems to me several reasons why it was wrong to apply this 16% cut in this case. Mr.Sahnis was drawing less pay in 1937 than he had been in 1925. From 1924 till 1937 he had no increment, on the contrary a 10% cut. Further in1935 before his appointment the new scale of pay had been adopted for the post of Steward. If he had been taken up in the P.W.D. permanently he would have been on the old higher scale. Further he was taken up in a blind alley job where there was

normally no chances of promotion. It is true that no rule seems to have been broken. It was open to Govt. to ~~impose~~ adopt the ~~new~~ pay scale. It was also open to Govt. to adopt the new pay scale. It was also opened to Govt. to impose the 16% cut by analogy. It was a case of Government's overriding its discretion, not of Govt. applying a rule. For the above reasons I think that Govt. has exercised its discretion much to Mr. Sabnis' disadvantage. There is good ground for considering Mr.Sabnis' case as one of special hardship. I think there is a good case to mitigating the hardship by treating this as a special case and moving Mr.Sabnis higher up his time scale. Mr.Sabnis is Steward, which post now includes the duties of Custodian and does a good amount of clerical work. He is a zealous and hardworking Govt. servant. His present petition is for a better pay scale. Certainly the Council Hall has been continuously a hub of activity for the past one or two years and the responsibility is greater. But before considering whether higher pay scale is deserved for the post, I suggest that Mr.Sabnis be moved up his present pay scale to the pay which he would receive under the pay scale he proposes now, namely Rs.130/-, applying ~~the scale he proposes now, namely Rs.130/-, applying~~ the scale from 1939. Thereafter increments to be of Rs.5/- on his present pay scale. The present continuous activity in the Council Hallwill continue only till the Assembly meets again. At that time it will be more suitable to consider the question of a new pay scale. If P.D. refuses to consider increasing Mr.Sabnis' pay in the present time scale. I shall consider whether there is any case for a higher pay scale.

Sd/- S.S.H.
'1/5.

Secy.L.C. I fully support Mr.Sabnis's request for higher pay. I also agree to Secy. L.C's view that Mr. Sabnis may be advanced in his present pay scale for the purpose, and that if this is not feasible a higher pay scale be sanctioned. In view of the onerous

onerous and responsible duties imposed on Mr. Sabnis as Steward and custodian, the higher pay proposed by Secy. L.A. is indicated by considerations justice, equity and fairness. I urged Govt. in F.D. to consider the case of Mr.Sabnis sympathetically as a very special case. I hope Secy.L.D. would lend his support.

Sd/- N.K.D.
13/5/44.

Secy. L.D.

Submitted for favourable consideration.

Sd/- P.N.M.
19/5/44.

U.O.N. to L.D. No. 3660, dt. 22nd May 1944.

Finance Department
"B" Br.

The proposal in these papers is to start, as a special case, Mr.B.S.Sabnis on a higher pay of Rs.130/- in the scale of Rs.50-3-95-5-160 in view of the onerous and responsible duties imposed on him as Steward and Custodian. The present pay of Mr.S. is, it appears, Rs.92/- p.m. The present proposal amounts to sanctioning as many as eight advance increments under B.C.S.R.51. Please see instruction under B.C.S.R.51. The proposal to grant an advance increment is to be scrutinized with special jealousy as it is contrary to the principle of a time scale pay grant an advance increment before it is due. Excepting under circumstances which would justify the grant of personal pay, grant of advance increment is not to be allowed except on first appointment to Govt. service. In view of this the question of granting advance increment to Mr.S. at this stage when he has already put in such a long period of service as Steward and Custodian cannot be considered.

2. Please see B.C.S.R.9(49). Special pay can be granted in consideration of (a) of the specially arduous nature of duties; or (b) a specific addition to the work or responsibility or (c) the

addition to the work or responsibility or (c) the unhealthiness of the locality in which the work is performed. In addition to the duties mentioned at A on P.3 ante to be performed normally by lower division clerk in the Secretariat Mr.S. has to perform the various duties mentioned at "B" on p.2 ante. In view of this the test that the duties to be performed by Mr.S. are specially arduous nature may be said to be satisfied and the question of granting special pay may be considered. As Mr. S.'s pay is Rs.92/- p.m. 20% of this amount (which is the maximum percentage allowed) comes to Rs.18 p.m. This Deptt. may agree to a special pay of Rs.20/- p.m. in round sum.

Sd/- S.V.D.
31.5.44.

This case have been handed to me by the under Secy. I regret I laid it aside informing more urgent work.

2. I do not think there is sufficient purpose for re-opening the question of a 16⅔% cut, late recovery to 6%. Similar cuts were applied in a large number of cases. The recovery suggested, viz. advance increment really amounts to re-opening the question on the ground of their cuts.

3. The main point appears to me to be that the combined duties of Steward & Custodian impose on the incumbent of this post, as compared with the occupant of normal clerical post on 50 - 60 - less additions. & responsibilities for which rent free accommodation is not by itself adequate remuneration. I am prepared to accept this contention. The appropriate recovery would then be special pay. I would agree to a special pay of Rs. 25 p.n., & be sanctioned with retrospective effect from 1.4.44 (i.e. prior ~~first~~ payable in May,44). If L.D. agrees to this, orders may issue accordingly.

Sd/-
23/10.

U.R. to L.D. dt. 23-10-44.

Submitted.

onerous and responsible duties imposed on Mr. Sabnis as Steward and custodian, the higher pay proposed by Secy. L.A. is indicated by considerations justice, equity and fairness. I urged Govt. in F.D. to consider the case of Mr.Sabnis sympathetically as a very special case. I hope Secy.L.D. would lend his support.

Sd/- N.K.D.
13/5/44.

Secy. L.D.

Submitted for favourable consideration.

Sd/- P.N.M.
19/5/44

U.O.R. to L.D. No. 3660, dt. 22nd May 1944.

Finance Department.
"B" Br.

The proposal in these papers is to start, as a special case, Mr.B.S.Sabnis on a higher pay of Rs.130/- in the scale of Rs.50-3-95-5-160 in view of the onerous and responsible duties imposed on him as Steward and Custodian. The present pay of Mr.S. is, it appears, Rs.92/- p.m. The present proposal amounts to sanctioning as many as eight advance increments under B.C.S.R.51. Please see instruction under B.C.S.R.51. The proposal to grant an advance increment is to be scrutinized with special jealousy as it is contrary to the principle of a time scale pay grant an advance increment before it is due. Excepting under circumstances which would justify the grant of personal pay, grant of advance increment is not to be allowed except on first appointment to Govt. service. In view of this the question of granting advance increment to Mr.S. at this stage when he has already put in such a long period of service as Steward and Custodian cannot be considered.

2. Please see B.C.S.R.9(49). Special pay can be granted in consideration of (a) of the specially arduous nature of duties; or (b) a specific addition to the work or responsibility or (c) the

Submitted.

The papers may be passed on to Secy,L.A. for scrutiny if any.

J.D.
1/11.

Supdt. Sd/-
1/11.

S.A.S. Sd/- R.T.K.
1/11.

U.O. to L.D. office No.7544, dt. 2-11-44.

L.A.Office.

Submitted.

Under the circumstances this office may agree and the papers be forwarded to L.D. for issuing the necessary order.

Sd/-
3/11.

S.A. Sd/-
3/11/44.

Secy. L.A. Sd/- K.S.M.
3/11.

Secy. L.C. Sd/- M.K.D.
3/11/44.

U.O.S. to L.D. No. 543, dt. 6-11-1944.

SIM/31.7.

L.A.Office.

Submitted.

The papers in connection with the fixation of pay of Mr. Sabnis, Steward of this office, were forwarded to L.D. on the 20th June 1944. It is understood that the papers are at present in F.D. An enquiry may, therefore, be made as to when the papers may be expected.

Encl?

Id/-
6/9.

Secy. L.A. Id/-
R.S.H.
6/9.

U.O.No. to F.D. No. 452 Dt. 6-9-1944.

GM/31.7.

Submitted.

L.A. Office has agreed to the Secy.

F.D. 's proposal Necessary memo to the A.G.

Bombay is put up for approval and signature.

Id/-
J.D.
13/11.

Supdt:-
Id/-

A.L.R.
Id/-
R.S.H.
14/11.

SHK/31.7.

To

The Accountant General,

Bombay (through Finance Department).

Copy to -

The Finance Department.
The Secretary, Bombay Legislative Council.
The Secretary, Bombay Legislative Assembly
(with a request to point out the source
to meet the extra expenditure).

Submitted after issue

The papers may now be filed in file Estt.I L.V./44.

Id/-
16/11.

Supdt. 80/-

S.A.S. 80/- S.T.S.
17/11.

S.R./31.7.

No. 7961

Legal Department,
Bombay Castle, 15th December 1944

Memorandum.

The undersigned presents compliments to the Accountant General, Bombay and is directed to convey the sanction of Government to the payment of especial pay of Rs. 25/- per mensem to Mr. B.S. Cabais, steward, Legislative Assembly Office, with retrospective effect from 1-4-1944 (i.e. first payable in May 1944).

The source to meet the extra expenditure will be pointed out by the Secretary, Bombay Legislative Assembly.

By order of the Governor of Bombay

Sd/- D.T.S.

for Secretary to Government,
Legal Department.

No. 574
Legislative Assembly Office,
Council Hall,
Bombay, 21st November 1944.

Subject:- Special Pay of Mr. D.S. Sabnis,
Steward, Legislative Assembly Office.

MEMORANDUM.

The undersigned presents compliments to the Accountant General, Bombay, and with reference to paragraph 2 of Memorandum in the Legal Department No. 7991, dated the 15th November 1944, has the honour to state that the extra expenditure for the year 1944-45 on account of special pay of Rs.25/- p.m. to Mr. D.S. Sabnis, Steward of the Legislative Assembly Office should be met from the anticipated savings under "25 Gen. Admn., Misc. Bodies, B.Provincial Legislative Assembly - Pay of Establishment."

Sd/-

(R.S. HALLIDAY)
For Secretary to the Bombay Legislative Assembly.

To

The Accountant General, Bombay (through the Finance Department).
Copy to -

The Finance Department.
The Legal Department.

SH/31.7.